

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00087

MARK BOLLING

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to continue the trial for a period of at least six weeks. (ECF No. 97). In support of his motion and the need for a continuance, counsel for defendant contends that: 1) he has a scheduling conflict because he is scheduled to begin a five-week trial before Judge Volk on the same date trial in this matter is scheduled; and 2) he needs additional time to prepare for this case given his involvement with the trial before Judge Volk. Counsel for the government does not oppose defendant's request for a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would unreasonably deny the defendant continuity of counsel and deny counsel for defendant the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until November 15, 2022, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by November 8, 2022;
2. All pretrial motions are to be filed by October 14, 2022;
3. A pretrial motions hearing is scheduled for October 24, 2022, at 11:30 a.m., in Charleston;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 23rd day of August, 2022.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge